



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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MAY 18 2011

REPLY TO THE ATTENTION OF:
WG-15J

Liane Shekter Smith, Chief
Environmental Resources Management Division
Michigan Department of Environmental Quality
P.O. Box 30273
Lansing, Michigan 48909-7773

RE: Fiscal Year (FY) 2010 End-of-Year Evaluation (EOY) for the Public Water System Supervision (PWSS) Program

Dear Ms. Shekter Smith:

The enclosed evaluation consists of a summary of PWSS program accomplishments and issues needing further attention, based on the Michigan Department of Environmental Quality (MDEQ) activities conducted under the FY 2010 Annual Resource Deployment Plan (ARDP), the State's FY 2010 EOY self-assessment and other information regarding the MDEQ's implementation of the PWSS program. The Michigan PWSS program and U.S. Environmental Protection Agency Region 5 have worked together for many years in a successful partnership to protect public health.

The Region commends the Michigan PWSS for continuing to direct public water supplies to develop and implement source water protection plans. The long term effect of this highly valuable prevention program is increased compliance and ultimately, better public health protection for the citizens of Michigan.

MDEQ is also commended for undertaking the implementation of the Stage 2 Disinfectant/Disinfection By-Products (Stage 2 DDBP) Rule, and the Long-Term 2 Enhanced Surface Water Treatment (LT2) Rule in Michigan, given MDEQ's limited staff and resources.

However, the severe budget crisis in Michigan that has been ongoing for the past 4-5 years has caused the Region concern regarding the State's ability to adequately fund its drinking water program in upcoming years. In recent years, the State has temporarily alleviated the programmatic effects of the budget crisis by:

- Prioritizing primacy activities that directly affect public health and temporarily disinvesting in certain non-public health related primacy activities. These temporary disinvestments have been documented in the ARDP, and Region 5 has acknowledged the State's disinvestments as necessary to ensure limited resources are used for activities that most directly affect public health protection, even though not all primacy activities are

being implemented.

- Receiving funds for six set-aside programs from the Drinking Water Revolving Fund (DWRf) capitalization grant to assist with implementation of the PWSS program, and to fund 90% of Michigan's source water protection activities. A total of 28.1 Full-Time-Equivalent's (FTEs) are currently funded through the DWRf set-asides that would have been eliminated otherwise due to State budget cuts. However, the Region is concerned that MDEQ may not have the full 20% State match required for its DWRf capitalization grant awarded for FY 2012, which would decrease the set-aside funds available to maintain necessary staff.

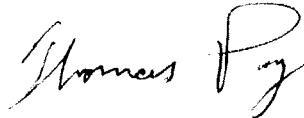
Program disinvestments and DWRf set-aside funds discussed above, have enabled the State to maintain the PWSS program's ability to protect public health. However, the demands of the PWSS program are increasing and several core activities of the program are in need of resources, including:

- **New Rule Implementation:** Implementation of new regulations over the past ten years has substantially increased the workload for the State, especially the Noncommunity program which oversees over 10,000 systems. The demands of new rules also affect the essential activities of monitoring for and responding to acute contaminants as well as completing quality sanitary surveys. The full resource impact of the Ground Water Rule, which became effective in December 2009, has not yet been fully realized and the proposed Revised Total Coliform Rule will have unprecedented program ramifications for small systems if promulgated by EPA as proposed. Given the decreasing trend of resources, we are concerned that it will be difficult for the State to expand the PWSS program to take on additional work related to new rules.
- **Field Surveillance Activities:** In recent years, the importance of routine field surveillance activities, including sanitary surveys, has been highlighted. A key element of public health protection in the PWSS program is prevention, which is what Michigan's routine surveillance program has provided. Routine surveillance between sanitary surveys is critical to collaboration with public water systems to ensure safe drinking water. It is important to continue to prioritize resources to ensure routine field surveillance activities, including sanitary surveys, are conducted in a timely manner.
- **Data Management:** A primacy requirement under the PWSS program is that the State must maintain a data management system that tracks requirements for all rules. Proper maintenance and upgrading of its data management system ensures the State will be able to meet the requirements of its primacy agreement, which includes accurate reporting of violations to EPA.

1. MDEQ's Noncommunity staff is collaborating with Region 5 and EPA Headquarters to transition its data management system to the Safe Drinking Water Information System-State version (SDWIS-State).
2. It is anticipated that eDWR, the electronic laboratory report application that will allow laboratory data to flow directly to the Federal database, will be operational by the end of FY 2011.
3. Implementation of Compliance Decision Support (CDS) is complete for two rules; MDEQ expects to see the majority of distribution system compliance monitoring in the Federal database by the end of 2011.

The Region is concerned about the continued resource dilemma facing the MDEQ. However, the partnership between Region 5 and the MDEQ will continue to be the cornerstone for maintaining a strong drinking water program in Michigan. If you have questions, please contact me or Jennifer Crooks of my staff, at 312-886-0244.

Sincerely,



Thomas Poy, Chief
Ground Water and Drinking Water Branch

Enclosure

cc: Liz Browne, MDEQ
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Richard Benzie, MDEQ
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April 20, 2011

Michigan Department of Environmental Quality (MDEQ)
Public Water System Supervision Program
End-of-Year Evaluation FY 2010

General Overview

Michigan's Public Water System Supervision (PWSS) program and U.S. EPA Region 5 Ground Water Drinking Water Branch (GWDWB) have worked together for many years in a successful partnership to protect public health by building a strong State drinking water program. MDEQ's focus on new rule implementation, the importance of source water protection as a preventative tool, and maintaining high compliance statistics indicate continued public health protection. However, due to the large number of staff retiring over the past year, the movement of programs and changes in the staffing caused by the reorganizations in January 2010 and in March 2011, and the drastic cuts being made by the Legislature, the Region is concerned how these actions are impacting the implementation of Michigan's drinking water program.

Resources

Region 5 understands the State's need to prioritize activities with its limited resources, and has acknowledged the State's temporary disinvestments in non-public health primacy activities as necessary to ensure public health protection, even though not all primacy activities are being implemented. Unfortunately, budget cuts increased the number of program disinvestments for FY 2010.

DWSRF set-asides

For FY 2010, the State requested funds for six set-aside programs from the Drinking Water Revolving Fund (DWRF) capitalization grant to assist with implementation of the PWSS program, and to fund 90% of Michigan's source water protection activities. In FY 2010, a total of 18.5 FTEs were funded through the DWRF set-asides that would have been eliminated otherwise due to State budget cuts; in FY 2011, 28.1 FTEs are currently being funded through the set-asides. The increase in FTEs funded through the set-asides from FY 2010 to FY 2011 points to the continuing dire financial situation in Michigan. The huge reductions in State resources would have devastated the PWSS program if not for funding through the DWRF set-asides. MDEQ may not have the full 20% State match required for its DWRF capitalization grant awarded for FY 2012, which would decrease the set-aside funds available to maintain necessary staff. MDEQ has effectively used DWRF set-aside funds to temporarily maintain the PWSS program to protect the public's drinking water; however DWRF set-aside funds are not a permanent source of funding.

Sanitary Surveys

Importance of Sanitary Surveys

A key element of public health protection in the drinking water program is prevention, which is what Michigan's routine surveillance program provides. The MDEQ's field presence at public water supplies, including sanitary surveys, is the cornerstone of the PWSS program; it is the "eyes and ears" of program implementation. Routine surveillance between sanitary surveys is critical to collaboration with public water systems to ensure safe drinking water. It is important to continue to prioritize resources to ensure routine surveillance activities, including sanitary surveys, are conducted in a timely manner.

Community water systems (CWS): Over the past 4 years, the State made a significant effort to improve sanitary survey timeliness at surface water systems. For FY 2010, the State committed that 90% of CWSs that use surface water, would have a sanitary survey conducted within the past 3 years. MDEQ

exceeded their commitment; a total of 96.3% of surface water CWSs had a sanitary survey conducted within the past 3 years.

Noncommunity water systems (NCWS):

Implementation of the Ground Water Rule (GWR) began in December 2009, which requires NCWSs using ground water to have a comprehensive sanitary survey conducted every 5 years. Due to the high staff turnover at most of the 44 Local Health Departments that implement the NCWS program, more sanitary survey training is necessary. MDEQ expects to complete 100% of required NCWS sanitary surveys in FY 2011; the State has completed 98% to date.

Data Management

A core requirement under the PWSS program is that a State must maintain a data management system that tracks requirements for all rules. Declining funding and staff resources are surfacing in the MDEQ's inability to maintain its data management systems for the long term. Specific needs include: the NCWS data management system, complete the Electronic Laboratory Report Application, and complete the incorporation of the Compliance Decision Support into SDWIS-State, which is discussed below.

Transition NCWS data management system to SDWIS-State: With Region 5 assistance, U.S. EPA Headquarters has offered MDEQ its contractor, SAIC, limited funding (\$10,000) for the specific needs and costs necessary to develop a plan to move the NCWS data to SDWIS-State. Michigan's Department of Technology Management and Budget (MDTMB) is reviewing MDEQ's proposal to SAIC at this time.

CWS Electronic Laboratory Report Application (eDWR)

A major recommendation from the Data Verification in November 2009 identified the need to complete the electronic laboratory report application (eDWR) that will allow laboratory data to flow to SDWIS-State. Problems include shortages in MDTMB's resources, lack of funding to extend the existing contract outside of minimal maintenance funding, and competing priorities within the State's drinking water program. It is anticipated that eDWR will be operational by the end of FY 2011.

CWS Compliance Decision Support (CDS)

MDEQ continues to work with U.S. EPA Headquarters' SDWIS-State contractor (SAIC) to incorporate CDS into SDWIS/State. Competing staff priorities and constant new releases have made progress slow. However, MDEQ expects to see the majority of distribution system compliance monitoring in SDWIS by the end of 2011. MDEQ expects to transition entry point monitoring, including Phase 2/5 and radionuclide monitoring, to SDWIS during 2011 and 2012. Implementation of CDS will address some discrepancies found during the data verification related to Federal reporting.

Other Data Items:

- timeliness of and quality of quarterly data submittals continue to be an issue, though progress has been noted. The NCWS program has upgraded to FedRep 3.0 which will improve the accuracy of the States data submittal.
- MDEQ has begun to report GWR monitoring/reporting violations.
- NCWS reporting of locational data has improved to approximately 86% of all NCWS and 89% of NTNCWSs.
- CWS data management has automated the Lead and Copper Rule under SDWIS-State's CDS module. MDEQ is encouraged to continue to work to incorporate other rules.
- CWS program is very timely with its adoption of the latest versions of SDWIS-State, and is currently using SDWIS-State 2.2.2.

--MDEQ needs to continue to improve its reporting of sanitary surveys to SDWIS-FED, particularly the ground water system sanitary surveys now required by the GWR. The NCWS program is making progress in developing the capability to report sanitary surveys; this may be available within the next few months.

Drinking Water Compliance

During FY 2010, 96.5% of the Michigan population served by CWSs received drinking water that met health-based standards. This number exceeds Region 5's Federal FY 2010 national target, and Michigan's FY 2010 commitment of 95%. During FY 2010, 94.3% of Michigan CWSs were in compliance with health-based standards, which exceeded Region 5's Federal FY 2010 national target of 90%, and Michigan's FY 2010 commitment of 90%. During FY 2010, 99% of "person months" (i.e., all persons served by community water systems times 12 months) during which Michigan CWSs provided drinking water, met all applicable health-based drinking water standards. This number exceeds Region 5's Federal FY 2010 national target, and Michigan's FY 2010 commitment of 96%. MDEQ is commended for exceeding all FY 2010 commitments.

Enforcement

The Region appreciates the cooperative work-sharing in the area of enforcement. GWDWB is issuing Notices of Violation (NOVs) and Administrative Orders (AOs) as needed, to NCWSs that have repeatedly failed to monitor. However, the number of systems that MDEQ identified for Region 5 enforcement dropped from 14 in FY 2009 to 4 in FY 2010. We look forward to increasing this number and continuing this productive working relationship.

MDEQ committed to address 174 Significant Non-compliers or Priority systems in FY 2010. MDEQ addressed 286 Priority systems under the commitment which ended with the October 2010 SDWIS/FED data freeze, which is commendable.

Source Water Protection (SWP)

The Michigan interactive ground water mapping project (MIGWHP) has produced a tool that is developing affordable delineations for small ground water systems that otherwise would not have accurate delineations. The delineations assist systems in locating potential contaminant sources. MDEQ is currently updating all of its delineations to increase accuracy. All CWSs have been updated and MDEQ is currently re-delineating all NCWs.

MDEQ's funding for matching wellhead protection grants was cut in half from \$600,000 to \$300,000. As a result, MDEQ district engineers are encouraging systems to consider SWP as part of a typical operation and maintenance program during their sanitary survey visits. The Region encourages MDEQ to incorporate other sustainability activities into sanitary surveys, such as increased water and energy efficiency, in FY 2011 and FY 2012. Region 5 is also promoting asset management (AM) as a tool to strengthen small water system's capacity. The Region encourages the State to promote AM practices during sanitary survey and routine surveillance visits.

Conclusion

Commendations include:

- The Region commends MDEQ for its continued efforts to effectively utilize its limited and decreasing resources to maintain public health protection; however, the Region is very concerned about how the continual decrease in resources will impact the PWSS program in the future.
- MDEQ has effectively used DWRP set-aside funds to temporarily maintain the PWSS program to protect the public's drinking water, and to promote source water protection efforts.
- MDEQ is commended for exceeding all FY 2010 enforcement commitments. In addition, MDEQ committed to address 174 Significant Non-compliers or Priority systems in FY 2010, and MDEQ addressed 286 Priority systems under the commitment, which is commendable.
- MDEQ is commended for exceeding their sanitary survey commitment by reporting that 96.3% of surface water CWSs had a sanitary survey conducted within the past 3 years. MDEQ expects to complete 100% of required NCWS sanitary surveys in FY 2011; the State has completed 98% to date.
- The Region is supportive of the progress made to conduct the necessary transition of the NCWS data management system to SDWIS-State.
- The need to fully implement eDWR and CDS for all rules continues, but progress is also noted.
- Timeliness of, and quality of the State's quarterly data submittals continue to be an issue, though progress has been noted. The NCWS program has upgraded to FedRep 3.0 which will improve the accuracy of the State's data submittal.
- MDEQ has begun to report GWR monitoring/reporting violations. NCWS reporting of locational data has improved to approximately 86% of all NCWS and 89% of NTNCWSs.
- CWS data management has automated the Lead and Copper Rule under SDWIS-State's CDS module. MDEQ is encouraged to continue to work to incorporate other rules.
- CWS program is very timely with its adoption of the latest versions of SDWIS-State. MDEQ is currently using SDWIS-State 2.2.2.
- MDEQ's progress in developing affordable delineations through the use of MIGWHP is commendable. MDEQ's 50/50 grant program for water systems to develop wellhead protection plans continues to make progress.
- MDEQ district engineers are encouraging systems to consider SWP as part of a typical operation and maintenance program during their sanitary survey visits. The Region encourages MDEQ to incorporate other sustainability activities into sanitary surveys, such as increased water and energy efficiency and asset management, in FY 2011 and FY 2012. The Region encourages the State to promote Asset Management practices during sanitary survey and routine surveillance visits.

Recommendations include:

- While the increased PWSS program disinvestments and the DWRP funds have temporarily sustained the drinking water program, a permanent source of funds must be identified to support the program.
- Even though the SDWA and CWA programs are now located in separate Divisions as a result of the recent reorganizations, Region 5 strongly encourages continued coordination between the SDWA and CWA programs to maximize the use of funding and public health protection.
- The Region strongly supports continued funding and providing resources for a routine surveillance program and technical assistance to public water supplies.
- The Region strongly supports MDEQ's plans to allocate the necessary resources to ensure that all NCWSs receive a sanitary survey within the required 5-year timeframe.

- MDEQ needs to continue to improve its reporting of sanitary surveys to SDWIS-FED, particularly the ground water system sanitary surveys now required by the GWR. The NCWS data management system has upgraded to FedRep 3.0, thus reporting may begin as early as May 2011.

